

## **IC 6-1.1-26**

### **Chapter 26. Refunds for Erroneous or Excessive Tax Payments**

#### **IC 6-1.1-26-1**

##### **Claim; filing; grounds**

Sec. 1. A person, or his heirs, personal representative, or successors, may file a claim for the refund of all or a portion of a tax installment which he has paid. However, the claim must be:

- (1) filed with the auditor of the county in which the taxes were originally paid;
- (2) filed within three (3) years after the taxes were first due;
- (3) filed on the form prescribed by the state board of accounts and approved by the department of local government finance; and
- (4) based upon one (1) of the following grounds:
  - (A) Taxes on the same property have been assessed and paid more than once for the same year.
  - (B) The taxes, as a matter of law, were illegal.
  - (C) There was a mathematical error either in the computation of the assessment upon which the taxes were based or in the computation of the taxes.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.74-1987, SEC.17; P.L.90-2002, SEC.214.*

#### **IC 6-1.1-26-2**

##### **Review of claim by department of local government finance; appeal**

Sec. 2. (a) The county auditor shall forward a claim for refund filed under section 1 of this chapter to the department of local government finance for review by the department if:

- (1) the claim is for the refund of taxes paid on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance; and
- (2) the claim is based upon the grounds specified in section 1(4)(ii) or 1(4)(iii) of this chapter.

(b) The department of local government finance shall review each refund claim forwarded to it under this section. The department shall certify its approval or disapproval on the claim and shall return the claim to the county auditor.

(c) Before the department of local government finance disapproves a refund claim that is forwarded to it under this section, the department shall notify the claimant of its intention to disapprove the claim and of the time and place fixed for a hearing on the claim. The department shall hold the hearing within thirty (30) days after the date of the notice. The claimant has a right to be heard at the hearing. After the hearing, the department shall give the claimant notice of the department's final determination on the claim.

(d) If a person desires to initiate an appeal of the final determination of the department of local government finance to disapprove a claim

under subsection (c), the person shall file a petition for review with the appropriate county assessor not more than forty-five (45) days after the department gives the person notice of the final determination.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (d), the person must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.43-1992, SEC.4; P.L.198-2001, SEC.61; P.L.178-2002, SEC.33.*

### **IC 6-1.1-26-3**

#### **Review of claim by county officers; appeal to state board**

Sec. 3. (a) A refund claim which is filed under section 1 of this chapter and which is not subject to review by the department of local government finance under section 2 of this chapter shall be either approved or disapproved by the county auditor, the county treasurer, and the county assessor.

(b) If the claim for refund is disapproved by either the county auditor, the county treasurer, or the county assessor, the claimant may appeal that decision to the Indiana board. The claimant must initiate the appeal and the Indiana board shall hear the appeal in the same manner that assessment appeals are heard by the Indiana board.

(c) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under this section, the person must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.43-1992, SEC.5; P.L.198-2001, SEC.62.*

### **IC 6-1.1-26-4**

#### **Final review by county commissioners; judicial review**

Sec. 4. (a) A county auditor shall submit a refund claim filed under section 1 of this chapter to the county board of commissioners for final review after the appropriate county officials either approve or disapprove the claim and, if the claim is disapproved, an appeal to the Indiana board is not initiated under section 3 of this chapter.

(b) The county board of commissioners shall disallow a refund claim if it was disapproved by one (1) of the appropriate county officials and an appeal to the Indiana board was not initiated under section 3 of this chapter.

(c) Except as provided in subsection (b) of this section, the county board of commissioners may either allow or disallow a refund claim which is submitted to it for final review. If the county board disallows a claim, the claimant may appeal that decision to the Indiana board.

(d) The Indiana board shall hear an appeal under subsection (c) in the same manner that assessment appeals are heard.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under this section, the person must petition for judicial review under IC 4-21.5-5 not more than

forty-five (45) days after the Indiana board gives the person notice of the final determination.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.43-1992, SEC.6; P.L.198-2001, SEC.63.*

### **IC 6-1.1-26-5**

#### **Payment of refunds**

Sec. 5. (a) When a claim for refund filed under section 1 of this chapter is allowed either by the county board of commissioners, the department of local government finance, the Indiana board, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of the refund shall equal the amount of the claim so allowed plus, with respect to claims for refund filed after December 31, 2001, interest at four percent (4%) from the date on which the taxes were paid or payable, whichever is later, to the date of the refund. The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this section.

(b) In the June or December settlement and apportionment of taxes, or both the June and December settlement and apportionment of taxes, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.43-1992, SEC.7; P.L.38-1998, SEC.5; P.L.198-2001, SEC.64; P.L.178-2002, SEC.34.*

### **IC 6-1.1-26-6**

#### **Surplus tax fund; application of fund; schedule of excess payments; unclaimed excess payments**

Sec. 6. (a) Notwithstanding the other provisions of this chapter, each county treasurer shall place the portion of a tax or special assessment payment which exceeds the amount actually due, as shown by the tax duplicate or special assessment records, in a special fund to be known as the "surplus tax fund". Amounts placed in the fund shall first be applied to the taxpayer's delinquent taxes in the manner provided in IC 6-1.1-23-5(b). The taxpayer may then file a verified claim for money remaining in the surplus tax fund. The county treasurer or county auditor shall require reasonable proof of payment by the person making the claim. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the taxpayer for the amount due the taxpayer.

(b) Not less frequently than at the time of each semiannual settlement, the county treasurer shall prepare duplicate schedules of all excess payments received. The schedules shall contain the name on the tax duplicate, the amount of excess paid, and the taxing district. The county treasurer shall deliver one (1) copy of the schedule to the county

auditor. Within fifteen (15) days after receiving the schedule, the county auditor shall review the schedule, and if the county auditor concurs with the schedule, the county auditor shall notify the county treasurer that the notice required under subsection (d) may be sent. The county auditor shall preserve the schedule, and if a refund is subsequently made, he shall note on the schedule and notify the county treasurer of the date and amount of the refund. In addition, when money is transferred from the surplus tax fund to the county general fund under subsection (c), the county auditor shall note the date and amount of the transfer on the schedule.

(c) If an excess payment is not claimed within the three (3) year period after November 10 of the year in which the payment was made and the county treasurer has given the written notice required under subsection (d), the county auditor shall transfer the excess from the surplus tax fund into the general fund of the county. If the county treasurer has given written notice concerning the excess under subsection (d), the excess may not be refunded under subsection (a) after the expiration of that three (3) year time period.

(d) This subsection applies only if the amount of an excess payment is more than five dollars (\$5) and exceeds the amount applied under subsection (a) to property taxes that are delinquent at the time that the excess payment is transferred to the surplus tax fund. Not later than forty-five (45) days after receiving the notification from the county auditor under subsection (b), the county treasurer shall give the taxpayer who made the excess payment written notice that the taxpayer may be entitled to a refund. The notice shall be mailed to the last known address of the taxpayer as listed on the tax duplicate or the most current record of the county treasurer. The notice must contain at least the following information:

- (1) A statement that the taxpayer may be entitled to a refund because the taxpayer made an excess payment.
- (2) The amount of the refund.
- (3) Instructions on how to claim the refund.
- (4) The date before which the refund must be claimed under subsection (c).
- (5) An explanation that the amount of the refund will be reduced by any amount applied to property taxes that are delinquent.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.50-1990, SEC.14; P.L.44-1992, SEC.2; P.L.38-1998, SEC.6.*